

EXHIBIT C

Excerpts from deposition of Defendant Shawn E. Mullin (First Officer)

SHAWN E. MULLIN
PETER DELVECCHIA vs FRONTIER AIRLINES

December 10, 2019

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3
4 PETER DELVECCHIA, et al,)

5 Plaintiff,)

6 vs.)

CASE NO. 2:19-CV-01322-KJD-NJK

7 FRONTIER AIRLINES, INC., et al,)

8 Defendants.)
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19 DEPOSITION OF SHAWN EDWARD MULLIN

20 Taken on Tuesday, December 10, 2019

21 At 10:00 a.m.

22 At Titolo Law Office

23 9950 West Cheyenne Avenue

24 Las Vegas, Nevada

25 REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938

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1 Q. Yes.

2 A. So my primary duty, and crews especially
3 was to work the radios and communicate with ATC and
4 Captain Shoop's primary duty was to fly the
5 aircraft. So I know that he and I discussed it,
6 just if there is anything we can talk about, I
7 remember the initial, after the initial call from
8 the flight attendants, he and I discussed it very
9 briefly. It was just, hey, you know, if this
10 becomes more of an issue we need to look into
11 additional steps, is there anything you can think of
12 that we should look at. And we both maybe did a
13 couple of searches in our manuals to see if there is
14 anything that addressed it, kind of, I think Captain
15 Shoop and I were discussing things in a way that he
16 would allow him to formulate kind of a checklist or
17 a plan, say, hey, if this we do that. And that's
18 kind of how we run our lives is, we take as much
19 information in and if it reaches a certain
20 threshold, then we act upon it accordingly, if not
21 we continue to the next option and stuff. So I
22 think he and I were just discussing things so that
23 he could formulate that work flow.

24 Q. And when you say you were looking at
25 things, that would have be the FLM Part 1?

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1 A. Correct.

2 Q. And did each of you have that on your
3 phones?

4 A. On our Ipads, when we are on the aircraft.

5 Q. I see, on a tablet?

6 A. Yes, it's our electronic flight bag is
7 managed through a controlled software that's on our
8 Ipads.

9 Q. So when you were looking for things then,
10 were you looking specifically at the threat levels?

11 A. I do know that we looked at the threat
12 levels, I looked at the threat levels, I am not sure
13 what he looked at. I looked at the threat levels to
14 see what they meant and kind of what the designators
15 are for each one. And there is many. And I also
16 did use a cursory search for anything related to
17 passenger safety or anything of that nature, just to
18 see if I could find anything, but I couldn't come up
19 with anything in the time. And, you know, as
20 typically is the case when we are flying the
21 aircraft, we have to divvy up those responsibilities
22 and their level of threat and level of importance.
23 So I did that for a while until I got busy flying
24 the aircraft again and then they hadn't called back.
25 So initially I just I assumed that there was not

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1 situation, but yes, I can see that as being one of
2 the true answers.

3 Q. Without getting too far afield to things
4 that go beyond what we are here for today. Did you
5 determine that anything in what the flight attendant
6 told Captain Shoop fit this category of threat level
7 one?

8 A. The first call, no. I think we identified
9 it as a potential situation, but not, it's not a
10 threat yet, it hasn't been a threat directly at us
11 or a crew member or the flight. But in that
12 conversation that Captain Shoop and I had, we
13 discussed kind of what would cause it in our
14 interpretation to move into this.

15 Q. And I note that you used a word that the
16 flight attendant also used which was situation. Is
17 there a definition in any of your materials or your
18 training at Frontier that you would be able to tell
19 the jury defines a situation?

20 MR. MAYE: Object to form.

21 A. I mean I think, there is a Webster
22 definition of a situation, I don't know how to
23 interpret that question.

24 Q. Okay.

25 A. I don't know how you are implying that

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1 A. It doesn't limit who it pertains to, it
2 says both crew members, safety of the flight and of
3 the passengers.

4 Q. Okay. And are there similar instructions,
5 for instance, divided up between at the gate,
6 taxiing and in flight?

7 A. Yes.

8 Q. And let me just ask you this, in general,
9 did any of the information that you received from
10 the flight attendants cause you to make a decision
11 that there was a threat level two?

12 A. At what point?

13 Q. Okay. Right now we are at the point where
14 there has been an initial call from a crew member.

15 A. At this point, no.

16 Q. Okay. I can't remember if I asked you, do
17 you know who the crew member was that called?

18 A. I don't remember, I said I can't remember.

19 Q. Thank you. As you can see I have a very
20 short memory span. With respect to the actions in
21 the cockpit, what happened next?

22 A. So we went through this, the initial phone
23 call from the cabin, we discussed our actions and
24 kind of what our game plan, to us, what would
25 indicate an increasing level of threat, and what

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1 courses of action we would seem as being most
2 appropriate as we continue the flight.

3 Q. All right. Did there come a time when you
4 received more information from any member of the
5 cabin crew?

6 A. Yes.

7 Q. And what happened?

8 A. I believe it was initially, it's always
9 going to be initiated by a phone call. So they
10 called us initially and at this point I believe one
11 or both of us needed to go to the bathroom. So
12 that's how it initiated was, do you guys need a
13 break, how are you doing. And the, I believe the
14 cabin, the captain went first.

15 Q. To take a break?

16 A. To take a break.

17 Q. All right.

18 A. And the process is that is securing the
19 front galley and allowing one of the flight
20 attendants to come in. And after we verify it's all
21 secure, and once they are inside then one of us can
22 leave and only one of us can leave at a time.

23 Q. Does the other still have on oxygen?

24 A. Yes, depending on your altitude but at
25 cruise, yes.

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1 that right?

2 A. She was giving an update on the situation.
3 Part of that update was additional information
4 that's new to me.

5 Q. Uh-huh.

6 A. Which was that the same two passengers had
7 been resat earlier in the flight.

8 Q. Did she say why?

9 A. I don't remember from then. I know that
10 it was a young child, an older gentleman.
11 Generally, that's because the child is too young or
12 one of them was unable to perform the duties that
13 are required in, I believe, they were sitting in the
14 exit row.

15 Q. But that's just a general understanding,
16 and not specifically what was told to you?

17 A. Yes, from, I don't remember that now.

18 Q. Okay. How about the descriptions of the
19 passengers, was that then added to in this
20 discussion?

21 A. I don't believe at this point I know
22 anything additional. I do learn this, that
23 information relatively soon, but at the point of
24 this conversation I don't believe I have learned
25 that yet.

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1 Q. And when you say that, just so we are
2 clear for the record, you mean?

3 A. More descriptions of these individuals, of
4 who they were, where they were and I guess what they
5 look like.

6 Q. Yes, and what they look like being that
7 one is African American and one is Caucasian?

8 A. Correct.

9 Q. Okay.

10 A. At this point I don't believe I knew that
11 yet. So we are discussing with the flight attendant
12 kind of what their procedures are, if they have any
13 procedure. We were discussing with the single
14 flight attendant what their procedures are and what
15 our procedures are and if we have anything
16 additional. I believe it was, at some point up to
17 now we have sent off our first information up to SOC
18 to just kind of keep them in the loop.

19 Q. This would be an ACARS message?

20 A. I believe so, yes.

21 Q. I am going to mark them in a second. But
22 if you need to refer to them now, that would be
23 fine?

24 A. I am happy to look it up.

25 Q. Let's go ahead and mark it as Exhibit 2,

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1 Q. And then she remained, and there was a
2 discussion. And this discussion involved both her
3 providing information and also your discussion about
4 the threat level issues, right or the FLM issues?

5 A. It wasn't specifically about the FLM
6 issues, it was just what procedures does she have,
7 it wasn't necessarily threat levels it was, they
8 have many more procedures relating to passengers
9 than we do.

10 Q. Sure. That's their job.

11 A. That's their job. So we just asked if
12 they had anything in particular that they needed to
13 address, and then we addressed anything that we had
14 which we couldn't find anything. And just we were
15 working together collaboratively to try to come up
16 with a series of events that would be either that
17 would have caused it to escalate, if it was to go
18 down that path, and if it didn't, we could continue
19 as planned and not make any immediate actions.

20 Q. Okay. So if I understand this correctly,
21 and based on what you have testified to earlier,
22 this discussion about where this situation might go
23 has to do with not only flight attendants protocols,
24 but also the protocols in your FLM, fair statement?

25 A. Yes.

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1 never saw them, you could only find out their race
2 by being told, right?

3 A. Yes.

4 Q. And the only people that would have
5 communicated that information to you were the flight
6 attendants?

7 A. Yes.

8 Q. Okay. Now, you, yourself, never saw the
9 adults touch the child?

10 A. Correct.

11 Q. Okay. Who made the decision to separate
12 the two passengers?

13 A. I think the four of us collectively had.
14 Like I said, earlier the captain and I had discussed
15 with the first flight attendant about what could
16 lead us to a situation where we would want to
17 separate them or what other outcomes we would have
18 to the extent of landing immediately, and as all
19 four flight attendants are in the cockpit, the
20 amount of information and the details that we had
21 received had led us down the track that we should
22 separate them and make sure to diffuse the situation
23 as best we can in the current in environment.

24 Q. So the decision was made based on new
25 information which was A, that the adult's hand was